

Plaintiff,

V.

SUNEDISON, INC. and NVT, LLC,

Defendants.

C.A. No. \_\_\_\_\_

## JURY TRIAL DEMANDED

## COMPLAINT

Plaintiff E. I. du Pont de Nemours and Company (“DuPont”) brings this Complaint for patent infringement against SunEdison, Inc. and NVT, LLC (collectively “Defendants”) and alleges as follows:

## NATURE OF THE ACTION

1. This is an action for patent infringement arising under the patent laws of the United States, including 35 U.S.C. § 271 and §§ 281-285.
2. This lawsuit pertains to the Defendants' infringement of U.S. Patent No. 8,497,420 (the "420 Patent"), entitled "Thick-Film Pastes Containing Lead- and Tellurium-Oxides, and Their Use in the Manufacture of Semiconductor Devices," through their importing into the United States and/or using, selling, and/or offering to sell within the United States solar modules composed of photovoltaic cells made with Samsung SDI Co., Ltd. (into which the former Cheil Industries Inc. merged) ("SDI-Cheil") front-side silver photovoltaic paste incorporating tellurium-oxide solids.

### **PARTIES**

3. Plaintiff DuPont is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business located at 1007 Market Street, Wilmington, Delaware 19898. DuPont is a world leader in science innovation in markets including agriculture and food, building and construction, electronics and communications, general industry, and transportation. DuPont is also a leading supplier of front-side silver photovoltaic pastes.

4. Defendant SunEdison, Inc. ("SunEdison") is a corporation organized and existing under the laws of the State of Delaware, with its corporate headquarters located at 501 Pearl Drive (City of O'Fallon), St. Peters, Missouri 63376, and its solar energy headquarters located at 600 Clipper Drive, Belmont, California 94002. Upon information and belief, SunEdison itself, and through its many subsidiaries, manufactures solar technology, including solar modules, and develops, finances, installs, and operates distributed solar power plants.

5. Defendant NVT, LLC ("NVT") is a limited liability corporation organized and existing under the laws of the State of Delaware, with a principal place of business located at 12500 Baltimore Avenue, Beltsville, Maryland 20705. Upon information and belief, NVT is a wholly owned subsidiary of SunEdison, does business as SunEdison, acts as SunEdison's agent and operates under SunEdison's control with regard to the events alleged below.

### **JURISDICTION AND VENUE**

6. This action arises under the Patent Laws of the United States, 35 U.S.C. § 101 *et seq.*, including 35 U.S.C. § 271. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331, 1338(a).

7. This Court has personal jurisdiction over SunEdison, including because SunEdison is a corporation organized and existing under the laws of the State of Delaware and maintains substantial, continuous, and systematic contacts in Delaware.

8. This Court has personal jurisdiction over NVT, including because NVT is a limited liability corporation organized and existing under the laws of the State of Delaware and maintains substantial, continuous, and systematic contacts in Delaware.

9. Venue is proper in the District of Delaware pursuant to 28 U.S.C. §§ 1391, 1400(b).

### **FACTUAL BACKGROUND**

10. Plaintiff DuPont is a leading material and technology supplier to the photovoltaic industry. The photovoltaic effect involves converting light into electrical energy, and is achieved through the use of semiconductors, or photovoltaic solar cells. DuPont has more than 25 years of experience in the photovoltaic industry and has made significant investments in product development and capacity expansions to help the industry achieve efficiency faster. For example, DuPont's technological advances in photovoltaic conductive pastes have allowed solar modules to run more efficiently and thus provide improved performance. Today, the photovoltaic industry is experiencing rapid growth as people around the world turn to alternative technologies, like photovoltaics, as a source of clean energy supply.

11. DuPont is the technology leader in the manufacture of photovoltaic conductive pastes and introduced the first ever front-side Ag (silver) paste utilizing tellurium technology in its ground-breaking Solamet® PV17x series.

12. Where DuPont has led, others have followed by incorporating tellurium technology into their front-side Ag photovoltaic paste products.

13. DuPont is the owner, by assignment, of all rights, title, and interest in the '420 Patent. Inventors Alan Frederick Carroll, Kenneth Warren Hang, Brian J. Laughlin, Kurt Richard Mikeska, Carmine Torardi, and Paul Douglas Vernoooy filed their application for the '420 Patent on May 4, 2011. The '420 Patent was fully examined by the United States Patent and Trademark Office and was duly and legally issued on July 30, 2013. A true and correct copy of the '420 Patent is attached hereto as Exhibit A.

14. The '420 Patent claims, *inter alia*, a thick film conductive composition suitable for the manufacture of photovoltaic cells as well as finished photovoltaic cells made using the claimed conductive composition.

**COUNT I – INFRINGEMENT  
OF UNITED STATES PATENT NO. 8,497,420  
AGAINST DEFENDANTS SUNEDISON AND NVT**

15. DuPont restates and realleges each of the assertions set forth in Paragraphs 1 through 14 above.

16. Upon information and belief, Flextronics International Ltd. ("Flextronics") manufactures solar modules at its facility in Malaysia for its customer SunEdison.

17. Upon information and belief, Flextronics uses and has used "Gen6" photovoltaic cells supplied by Neo Solar Power Corporation ("Neo Solar Power") in Taiwan to assemble SunEdison's solar modules.

18. Upon information and belief, Neo Solar Power's "Gen6" cells use and have used Ag front-side photovoltaic paste supplied from SDI-Cheil, specifically paste incorporating tellurium-oxide solids.

19. Upon information and belief, SunEdison contracts directly with Neo Solar Power for Neo Solar Power to sell SunEdison "Gen6" cells to be incorporated by Flextronics into finished solar modules.

20. Flextronics ships and delivers solar modules, including, on information and belief, those containing infringing “Gen6” cells, to SunEdison affiliate NVT in Beltsville, Maryland.

21. Upon information and belief, SunEdison itself, and through NVT and other subsidiaries acting under SunEdison’s control and as its agent, imports into the United States, and/or uses, sells, and/or offers for sale in the United States the finished photovoltaic cells and solar modules made with SDI-Cheil paste incorporating tellurium-oxide solids.

22. Defendants have infringed and are infringing at least claim 12 of the ’420 Patent by importing into the United States and/or by using, offering to sell, and/or selling in the United States the finished photovoltaic cells and solar modules made with SDI-Cheil paste incorporating tellurium-oxide solids.

23. DuPont is entitled to recover from Defendants the damages sustained by DuPont as a result of Defendants’ wrongful acts in an amount to be proven at trial, including lost profits but in no event less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

24. The infringement by Defendants of the ’420 Patent will continue to cause DuPont irreparable injury and damage for which there is no adequate remedy at law unless and until Defendants are enjoined from infringing said patent.

#### **REQUESTED RELIEF**

WHEREFORE, DuPont respectfully requests the entry of judgment in its favor, and against Defendants, including the following relief:

a. An adjudication that Defendants have infringed one or more claims of the ’420 Patent, literally and/or under the doctrine of equivalents;

- b. A grant of a permanent injunction pursuant to 35 U.S.C. § 283, enjoining Defendants and their agents, servants, officers, directors, employees, affiliated entities, and all persons in active concert or participation with them from continued infringement of the '420 Patent;
- c. An award to DuPont of damages adequate to compensate DuPont for Defendants' acts of infringement of the '420 Patent;
- d. An award of prejudgment and post-judgment interest on all sums awarded;
- e. A post-verdict and post-judgment accounting for any infringement of the '420 Patent not otherwise covered by a damages award and the requested injunctive relief; and
- f. Any such other and further relief as the Court may deem just and proper under the circumstances.

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, DuPont respectfully requests a trial by jury of any and all issues on which a trial by jury is available under applicable law.

ASHBY & GEDDES

*/s/ Steven J. Balick*

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